

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of New     ) NOTICE OF ADOPTION  
Rule I pertaining to salvage permits     )

TO: All Concerned Persons

1. On July 15, 2013, the Fish and Wildlife Commission published MAR Notice No. 12-392 pertaining to the proposed adoption of the above-stated rule at page 1300 of the 2013 Montana Administrative Register, Issue Number 14.

2. The commission has adopted the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I [12.3.186] SALVAGE PERMITS (1) A deer, elk, moose, or antelope accidentally killed as a result of a vehicle collision may be salvaged and possessed if a permit is obtained from a peace officer, a department regional office during regular business hours, or by the department through an electronic application and issuing process within 24 hours of taking possession of the animal.

(2) Any animal carcass taken for salvage must:

(a) be taken in its entirety; and

~~(a) be presented to a peace officer or department regional office during regular business hours within 24 hours of taking possession of the animal; and~~

(b) be disposed of in accordance with 75-10-213, MCA, and any meat rendered must be utilized for human consumption and may not be used for bait or any other purpose.

(3) The salvage permit will be issued on a form provided by the department.

(4) Big game licenses and tags issued for the purpose of hunting shall not be used for purposes of salvaging animals.

(5) All parts of animals salvaged shall be made available for inspection by a peace officer upon request.

AUTH: 87-3-145, MCA

IMP: 87-1-301, 87-3-145, MCA

3. The commission received a total of 86 comments, 55 supporting adopting the rule and 31 comments that offered comments that were either outside the scope of the proposed rules or disagreed with the legislation allowing for the salvage of road-killed animals. The commission has thoroughly considered the comments received and the commission's responses are as follows:

Comment 1: Twelve comments stated that it was unnecessary to even have a permitting system considering the animals were already dead, believed that a person should not have to report the animal, or felt that burdening peace officers or

department employees with an inspection was not necessary and a waste of resources.

Response 1: HB 247 amended current laws that prohibited the possession of animals not taken legally through hunting or through special permission by the department so as to provide a method by which animals killed in vehicular collisions could be salvaged while still tracking the ultimate disposition of the animals which is a primary responsibility of the department. A permitting system will provide a means to help ensure that the permits are not abused or that other than lawful use is made of animals taken under the permit. The adopted rule regarding how to handle the permitting procedure will not require onsite inspection by an individual peace officer but will include an affidavit that the applicant for the permit will allow inspection of the animal upon request of a peace officer should there be any question as to the legality of the animal.

Comment 2: Ten comments suggested using the salvaged meat to feed jail inmates or donating to food banks.

Response 2: The law allows for individual private citizens to salvage road-killed animals in their entirety. Montana Food Bank does not accept road-killed animals for distribution and the department has not attempted to coordinate with penal institutions.

Comment 3: Ten comments were received stating that road kill was unfit for human consumption and to eat it posed human health concerns.

Response 3: It is the responsibility of the permittee to ensure that any salvaged meat is edible and fit for consumption. The state assumes no liability for the consumption of meat salvaged by permit.

Comment 4: A few comments stated salvaged meat should be used for other purposes than human consumption such as for zoos or pets.

Response 4: The focus of HB 247 was not letting an otherwise useable animal go to waste with the emphasis on human consumption. Licensed zoos and permitted rehabilitation centers can get a permit to pick up road-killed animals for their use. Otherwise it still remains unlawful to utilize game meat that is fit for human consumption for any other purpose.

Comment 5: A few comments stated permitting the salvage of vehicular killed animals has the potential to encourage unlawful and intentional taking of wildlife, including "hunting" with motor vehicles or shot and then reported as road killed.

Response 5: Although the possibility remains for unlawful activity regardless of any stipulations placed upon the retrieval and possession of road-killed animals, the permit system will provide a tracking method of those who pick up animals. Furthermore, with the adoption of the rule allowing for the inspection upon request of

any permitted salvaged animal taken into possession, a prime means of investigating possible illicit activities associated with permitting will be available to wardens and other law enforcement officers.

Comment 6: Three people stated concern for people who would be field dressing animals on a road and the public safety risks that would present for both the person salvaging the animal as well as passing motorists. Additionally, concerns were expressed regarding viscera remaining on the side of the road after a salvaged animal being field dressed could attract other wildlife posing a danger of being struck by vehicles.

Response 6: The rule requires a person salvaging a deer, elk, antelope, or moose that has been killed in a vehicular collision to take the entire carcass from the site and dispose of unusable portions as prescribed by state health laws. As such, a person could field dress the animal on the roadway but would be required to take the viscera upon leaving the site with the carcass. This will significantly reduce the possibility of other wildlife being drawn to the site and hit by traffic if entrails are left at the site. Emphasis on highway safety will be made in the instructions that accompany the permit as well as informing permittees that individuals parked on a roadway to salvage animals do so at their own risk.

Comment 7: Two people commented that any antlers or horns should be collected by enforcement personnel.

Response 7: Discussion in legislative hearings indicated that the intent was to allow a person to keep animals in their entirety including all parts including antlers and ivories.

Comment 8: One person questioned if there is a charge for the permit.

Response 8: At this time, there is no charge planned for issuing a salvage permit.

Comment 9: One person requested the commission address trespassing issues so people stay off private land.

Response 9: Animals will be salvaged from road shoulders and right of ways. There should be no reason for anyone to go on private land in most cases.

Comment 10: One person wanted to assure this rule does not authorize someone wishing to obtain road kill for research and that salvaged meat may not be used for bait.

Response 10: The rule specifically forbids the use of salvaged animals for any kind of baiting and a collector's permit is necessary to collect managed wildlife for research.

Comment 11: Three people commented how important it is for the whole animal to be removed and disposed of properly and a person may not leave gut piles.

Response 11: The rule requires the animal and all parts be taken and that any unusable portion be disposed of in accordance with state and county laws. That would include taking any viscera that result from dressing out an animal on the roadway.

Comment 12: Four people stated it would be a problem to require someone to present the entire carcass for inspection and a moose would be almost impossible.

Response 12: The rule was amended and no longer requires a person to present a salvaged animal to obtain a permit. The rule does require a person to present an animal to a peace officer upon request should questions arise concerning the circumstances under which the animal was killed.

Comment 13: One person requested the permitting system be reasonable and accessible to citizens.

Response 13: A person has 24 hours to obtain a permit via the department's web site ([www.fwp.mt.gov](http://www.fwp.mt.gov)), a law enforcement officer, or a department office to get assistance obtaining a permit.

Comment 14: One person stated that published studies have indicated that in areas where chronic wasting disease (CWD) is active, there are a higher percentage of CWD-positive animals in road-killed cervids than in free-ranging cervids in the same area. Provisions should be in place to put an immediate stop to salvage in areas where CWD is detected. Movement of road-killed carcasses from these areas may not only have risks for human health, but for potential spread of CWD in cervids in new areas if carcasses are not properly disposed of.

Response 14: The commission agrees and although there are no documented cases of CWD in the wild in Montana at this date, the potential certainly exists. Should an outbreak be detected in an area, the commission has the authority to implement restrictions to protect wildlife populations in the state.

/s/ William Schenk  
William Schenk  
Rule Reviewer

/s/ Dan Vermillion  
Dan Vermillion  
Chairman  
Fish and Wildlife Commission

Certified to the Secretary of State November 4, 2013.